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לע"נ הרב יוסף ישראל
ב"ר משה גרוסמן זצ"ל

Dedicated in loving memory of HaRav Yosef Grossman *zt"l*

FAIR HEARING: MAY ONE LISTEN IN ON PRIVATE CONVERSATIONS?

Adapted from the writings of Dayan Yitzhak Grossman

Hefkervelt reports:

> Lakewood Hatzolah launches ad campaign against the practice of listening in to Hatzolah calls with scanners and posting pictures of accident scenes on public forums and websites. The ads say: "Would you peek into other people's houses? Would you listen in on other people's phone calls? Then why would you listen to other people's Hatzolah calls?"[1]

In a related story, Wired reports:

> A major independent flight tracking platform, which has made enemies of the Saudi royal family and Elon Musk, has been sold to a subsidiary of a private equity firm…ADS-B Exchange, like bigger competitors FlightRadar24 and FlightAware, allows users armed with the aircraft registration details to follow planes' flight paths and access historical travel data. That data, as Wired reported last month, is enormously helpful for plane spotters, open source investigators, and aviation regulators…ADS-B Exchange…is entirely user-supported. Across the globe, volunteers set up receivers—which can be built, or bought for relatively cheap—designed to receive real-time data from planes in mid-flight. They, in turn, feed that data into ADS-B Exchange's software, which compiles the thousands of inputs and displays a real-time map of all the world's in-transit flights.
>
> The standard the exchange relies on, Automatic Dependent Surveillance-Broadcast (ADS-B), is becoming increasingly ubiquitous and is mandated by the FAA. It's that standard that has made ADS-B Exchange so reviled by Musk and the Saudis…Because ADS-B is transmitted without encryption, directly from the planes themselves…censorship (by the FAA on behalf of plane owners) isn't possible.
>
> ADS-B Exchange's administrators pride themselves on never hiding flight data. James Stanford, one of ADS-B Exchange's senior administrators, told Wired their website has been used to track gold smugglers and kidnappers, and it has been threatened by billionaires and warlords who aren't keen on having their private jets tracked…[2]

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1 Friday January 27 News Updates Lakewood. Hefkervelt. https://hefkervelt.blogspot.com/2023/01/friday-january-27-news-updates-lakewood.html. Cf. Brooklyn Hatzolah: New Kids' Radio Puts Deadly Block on Frequency. Hefkervelt. Jun. 3, 2015; Hatzolah CJ Has Strong Warning for Parents after Children Interfere with Radio Transmissions During Emergency Call. The Lakewood Scoop. Oct. 2, 2022.

2 Justin Ling. The Flight Tracker That Powered @ElonJet Just Took a Left Turn. Wired. https://www.wired.com/story/ads-b-exchange-jetnet-sale/. (This article was republished on Ars Technica here.)

The Bais Havaad on the Parsha
Bring the Parsha to Life!

PARSHAS YISRO

MOONSHOT

Excerpted and adapted from a shiur *by Dayan Yitzhak Grossman*

You shall not make [images of what is] with Me; gods of silver and gods of gold you shall not make for yourselves.

Shmos 20:20

The Gemara (Rosh Hashanah 24a) says that among the images this prohibits making are those of humans and celestial objects like the Sun, Moon, and stars. In addition, Chazal forbade retaining such images due to *chashad* (suspicion by others of idol worship).

The Gemara distinguishes between three-dimensional images, which are forbidden, and two-dimensional ones, which are permitted. According to the Ramban, this distinction applies only to the *issur deRabanan,* but the *issur de'Oreisa* forbids even two-dimensional images. According to the Rambam and Shulchan Aruch, the distinction applies even to the *issur de'Oreisa* concerning human images. (Two-dimensional images of celestial bodies are forbidden, because celestial bodies are often perceived as two-dimensional.)

It would seem that according to the Shulchan Aruch one may draw a picture of a person, and R' Ovadia Yosef and others rule that one may photograph people. But the Divrei Malkiel and a minority of *poskim* forbid it, because some *Acharonim* rule like the Ramban.

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Q&A from the BAIS HAVAAD HALACHA HOTLINE
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Gadol Talmud

Q A while back I pledged a set of Shas from a certain publisher to my shul, but the prices have almost doubled since. What do I owe now?

A After the dissolution of the Austro-Hungarian Empire in World War I, the new Austrian currency, the krone, underwent severe inflation, spawning queries like yours for the Jews of Galicia.

R' Meir Arik (Shu"t Imrei Yosher 2:98) was asked about someone who underwrote the wedding expenses of an orphan before the currency lost most of its value. He ruled that since the man hadn't pledged a specific number of kronen, he must pay for the wedding despite the drastic price increase.

R' Yaakov Blau (Tzedakah Umishpat *perek* 4 note 101) clarifies that if the pledge was paid up before the inflation but the wedding needs were only purchased afterward at much higher cost, the obligation is satisfied. In the opposite

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In this author's opinion, there seems to be a certain hypocrisy in the stance of some technology enthusiasts who view ADS-B Exchange positively but are horrified about the privacy implications of things like Amazon's Ring cameras.[3] How would supporters of ADS-B Exchange feel about a similar project for automobile license plates, involving the creation of a publicly available database of automobile locations over time? A commenter on Hacker News makes this point:

> Many in this community get awfully nervous about things like police surveillance of cars, license plate tracking, etc. The police say they need it just for special cases like crime, but we all know the dangers of dragnet surveillance. This is also dragnet surveillance; it's the same violation of privacy if the mode of transportation is different. Many on this forum think it's fun, though, because the mechanism is a bit nerdy and they aren't the ones being surveilled.[4]

The question raised by these stories is whether there is any privacy violation involved in indulging one's curiosity by accessing or disseminating public, unencrypted radio transmissions that contain information about others that they would prefer be kept private; in this article, we consider some halachic perspectives on this question.

As we have previously noted,[5] privacy infringement may violate several halachos, including the following:

- The *cheirem* attributed to Rabeinu Gershom against reading the correspondence of others
- *Hezek re'iah* (damage caused by observing someone's private affairs)
- The prohibition against utilizing someone's property without permission
- *"Ve'ahavta lereiacha kamocha* (You shall love your fellow as yourself)."—"That which is hateful to you, do not do to your friend."
- *"Lo seileich rachil be'amecha* (You shall not go about gossiping among your people)."

One key question is whether the absence of an expectation of privacy mitigates these concerns. With regard to the *cheirem* of Rabeinu Gershom, the Aruch Hashulchan is uncertain whether it applies to unsealed mail, because the sender has not attempted to hide the contents.[6] R' Yaakov Epstein rules that the *cheirem* does not apply, and that it is at most a matter of propriety (*derech hayosher*) and musar to refrain from reading the unsealed correspondence of others.[7] R' Shamai Kehas Gross, on the other hand, rules that the cheirem does apply, because although the writer clearly has no objection to the postal workers reading his communication, he may object to others doing so.[8]

With regard to *hezek re'iah*, the Me'iri rules that the obligation upon neighbors to build a fence between their properties to shield their personal affairs from observation does not mandate a soundproof fence, because people are typically careful about their speech,[9] i.e., because there is no expectation of privacy, a concern for *hezek shmiah* (damage caused by hearing private conversations) does not exist. R' Eliyahu Mizrachi goes even further and declares categorically that we do not find anywhere in the Gemara a concern for the possibility of neighbors overhearing each other's conversations.[10] R' Yaakov Blau, however, assumes that even R' Eliyahu Mizrachi is merely asserting that neighbors have no claim upon each other to build a fence that will prevent eavesdropping, but he agrees that it is prohibited to deliberately eavesdrop on someone else's conversation.[11]

R' Yaakov Avraham Cohen, too, argues at length that R' Eliyahu Mizrachi certainly agrees that the same concerns that give rise to the prohibition of *hezek re'iah* apply to *hezek shmiah* as well; all he means by his declaration that we do not find such a concern anywhere is that we do not find an obligation to build a fence to address such a concern, for the reason given by the Me'iri—that people are usually careful about their speech.

Rav Cohen then proceeds to take the opportunity to excoriate users of scanners and other listening devices:

> This is the place to protest over the plague that has spread—even in our camp—that there are those who listen to their fellows with all types of scanners and eavesdropping and listening devices of various sorts, or via cordless telephones and babysitter devices (baby monitors?), and similar things. Through the wonders of technology, it is possible today to do so with utmost ease, and they do so for the purpose of industrial espionage, i.e., in order to know the plans of their competitors in commerce and business, and this is sometimes done simply by people who are bored, and this is known.
>
> According to what has been established, this entails an absolute prohibition, and the status of one who does so is that of one who causes damage via slander (*lishna bisha*) and by violating modesty and by preventing others from being able to use their property,[12] and it is prohibited just like *hezek re'iah,* which is prohibited quite strictly by the Shulchan Aruch... and this applies as well to those who break into computer codes or to any protected database of information or the like, who are called hackers—their sin is severe.
>
> And we should add that they also thus violate the well-known *cheirem* of Rabeinu Gershom...and many stumble in this without paying attention (and the practice becomes a hobby, and this is the way of the Evil Inclination).[13]

Rav Gross was asked about the permissibility of possessing a scanner that can be used to eavesdrop on the telephone calls of others (perhaps a radio scanner that could intercept the transmissions of early cordless phones?). He answers that he was initially disinclined to respond to the question, because it is obvious and clear that it is prohibited to possess a device that flouts all the rules of *tznius*, but because he heard that there is a *pirtzah* (breach) in this area, and some people have purchased such devices, he will explicate the reasons for the prohibition. Unlike Rav Cohen, he maintains that the *cheirem* of Rabeinu Gershom is not actually applicable, because it is limited to written communication,[14] but he still staunchly forbids eavesdropping on the phone conversations of others on a variety of grounds, including the prohibition of "You shall not go about gossiping among your people."[15]

It should be noted that Rav Gross is discussing eavesdropping on telephone conversations, which is generally illegal and where the parties have an expectation of privacy. The scanners that are the subject of the Hatzolah campaign, however, are generally perfectly legal, and their widespread use is well known. (Rav Cohen does bemoan "those who listen to their fellows with *all types* of scanners," but he, too, may have in mind eavesdropping where there is a reasonable expectation of privacy.)

Even if the various prohibitions under discussion do not technically apply to the use of such scanners, however, it is likely that the general distaste of the *poskim* for nosiness and snooping into the affairs of others would still apply. This is particularly so because by the very nature of these communications systems, much of the communication that takes place over them involves information that the subjects would certainly consider private and sensitive, and this information is only being transmitted clearly over a publicly accessible communications channel due to the exigency of the situation.

3 See, e.g., Matthew Guariglia. What to Know Before You Buy or Install Your Amazon Ring Camera. Electronic Frontier Foundation.

4 https://news.ycombinator.com/item?id=22364214. See https://news.ycombinator.com/item?id=22364734 for an attempt to distinguish between the tracking of private planes and automobiles.

5 See Hack Attack and Halacha: The Halachos Of Hacking; Corresponding Respect: Privacy in Personal Mail; Private First Class: Rabeinu Gershom and the Mail. Bais HaVaad Halacha Journal. Dec. 17, 2020.

6 Aruch Hashulchan Y.D. 334:21. Cf. Asei Lecha Rav *cheilek* 1 *siman* 42 p. 130.

7 Chevel Nachalaso *kerech* 1 *siman* 84.

8 Shu"t Sheivet HaKehasi *cheilek* 1 *siman* 315 *os* 2.

9 Beis Habechirah Bava Basra 2a end of s.v. *Amar* haMe'iri.

10 Shu"t R' Eliyahu Mizrachi end of *siman* 8, cited in Eirech Lechem and Gilyon Hashas to C.M. *siman* 154.

11 Pis'chei Choshen Nezikin *perek* 14 n. 53 p. 406 s.v. *Venirah de'af* haRe'eim.

12 These various formulations appear in the explanations of the *Rishonim* of the problem of *hezek re'iah*.

13 Eimek Hamishpat Hilchos *Shecheinim siman* 26 *osios* 2-4 pp. 202-04. Cf. Mishkan Shalom *siman* 6 *Mekoros Uviurim os* 14 p. 342.

14 See Hack Attack, nn. 3-4 for further sources on this question.

15 Shu"t Sheivet HaKehasi *cheilek* 4 *siman* 327.

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RAV ARYEH FINKEL

case—where the wedding was held immediately with borrowed funds and the donor didn't pay before the currency was inflated—he must pay according to the current rate, and the orphan pockets the difference.

In your case as well, you must donate according to the current price of the Shas. If you had paid the shul but it hadn't yet purchased the sfarim before the price rise, the loss would be the shul's. If the shul bought the Shas with other funds and you postponed payment, you must pay the higher price.

The Maharsham (3:302) seems to disagree with the Imrei Yosher, as he ruled leniently in a case where someone pledged a container of flour to support the poor and the price of flour doubled before he paid. He explained that such a pledge can be fulfilled by paying the cash value of the flour, so the pledge is treated as if it had been made for cash, and the obligation is satisfied at the original price.

The Tzedakah Umishpat (ibid.) reconciles the two *teshuvos* by distinguishing between pledging a specific item, like flour, and pledging something nonspecific, like to relieve an orphan's wedding expense burden. Based on this, your pledge can be fulfilled by paying the original price, because it was for a specific item.

The Maharsham notes that if the pledge was in exchange for a *kibud* (honor), it would be treated as a barter, where the specific item is due regardless of its price change.

To avoid this issue, pledge a sum of money rather than a specific item.

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The Chut Shani says that according to the Shulchan Aruch, one may not make a simple drawing of the Sun, Moon, or stars. R' Moshe Feinstein and others maintain that only a picture that evinces artistry is prohibited. The Shulchan Aruch cites an opinion that a partial image of the Sun is permitted.

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